

ASSEMBLY BILL

No. 624

Introduced by Assembly Member Lieber

February 19, 2003

An act to amend Sections 798.55, 798.56, 798.58, and 798.74 of the Civil Code, relating to mobilehomes.

LEGISLATIVE COUNSEL'S DIGEST

AB 624, as introduced, Lieber. Mobilehome parks.

(1) Existing law defines and regulates the terms of a rental agreement for a mobilehome park. Existing law defines a homeowner in a mobilehome park and a resident of a mobilehome park differently. Existing law makes a statement of legislative findings regarding the need of mobilehome owners for unique protection from actual or constructive eviction. Existing law permits a mobilehome park tenancy to be terminated only for certain reasons certain provisions address the termination of the tenancy of a homeowner in the park for the nonpayment of rent, utility charges, or reasonable incidental expenses, and these provisions do not apply to a resident. Existing law establishes a written notice process, which is directed to the homeowner, as well as the legal owner, junior lienholder, and registered owner of the mobilehome, and this process applies when a lease is terminated or not renewed, as specified.

This bill would revise the statement of legislative findings described above to refer to residents as well as owners of mobilehomes. The bill would make the termination of tenancy provisions described above applicable to residents. The bill would prohibit forcing a homeowner to remove a mobilehome from its designated space for at least 6 months, following a judgment in an unlawful detainer case, if the homeowner

meets specified requirements. The bill would require, in specified cases, that an additional notice be sent to a homeowner or a resident, as part of notice of unlawful detainer, which would describe the implications of failing to pay rent, utility charges, or reasonable incidental expenses.

(2) Existing law establishes the sole reasons that a mobilehome park tenancy may be terminated, and prohibits the termination of a tenancy for the purpose of making the homeowner's site available to a person who proposes to purchase or rent a mobilehome from the owner of the park.

This bill would prohibit management of a mobilehome park from terminating a tenancy based upon facts which the landlord does not have reasonable cause to believe true or based upon a legal theory that is untenable under the facts known to the landlord. The bill would provide that a person who violates these provisions is liable for the actual damages suffered by any aggrieved party or for statutory damages of \$5,000, whichever is greater, and for attorneys' fees and costs as may be determined by the court. The bill would also permit a court to also award punitive damages, as specified.

(3) Existing law grants the management of a mobilehome park the right of prior approval of a purchaser of a mobilehome that will remain in the park, as specified.

This bill would restrict the right of prior approval by management with regard to the amount of monthly gross income management could require a purchaser to have, as specified.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 798.55 of the Civil Code is amended to
2 read:
3 798.55. (a) (1) The Legislature finds and declares that,
4 because of the high cost of moving mobilehomes, the potential for
5 damage resulting therefrom, the requirements relating to the
6 installation of mobilehomes, and the cost of landscaping or lot
7 preparation, it is necessary that the owners *and residents* of
8 mobilehomes occupied within mobilehome parks be provided
9 with the unique protection from actual or constructive eviction
10 afforded by the provisions of this chapter.

1 (2) *Residents of mobilehome parks shall receive the full benefit*
2 *of the protections offered to them by this chapter, and in particular*
3 *by this section and Section 798.56.*

4 (b) The management ~~shall~~ *may* not terminate or refuse to renew
5 a tenancy, except for a reason specified in this article and upon the
6 giving of written notice to the homeowner *or resident, or both*, in
7 the manner prescribed by Section 1162 of the Code of Civil
8 Procedure, to remove the mobilehome from the park within a
9 period of not less than 60 days, which period shall be specified in
10 the notice. A copy of this notice shall be sent to the legal owner,
11 as defined in Section 18005.8 of the Health and Safety Code, each
12 junior lienholder, as defined in Section 18005.3 of the Health and
13 Safety Code, and the registered owner of the mobilehome, if other
14 than the homeowner, by United States mail within 10 days after
15 notice to the homeowner. The copy may be sent by regular mail or
16 by certified or registered mail with return receipt requested, at the
17 option of the management. If the homeowner has not paid the rent
18 due within three days after notice to the homeowner, and if the first
19 notice was not sent by certified or registered mail with return
20 receipt requested, a copy of the notice shall again be sent to the
21 legal owner, each junior lienholder, and the registered owner, if
22 other than the homeowner, by certified or registered mail with
23 return receipt requested within 10 days after notice to the
24 homeowner. Copies of the notice shall be addressed to the legal
25 owner, each junior lienholder, and the registered owner at their
26 addresses, as set forth in the registration card specified in Section
27 18091.5 of the Health and Safety Code.

28 (c) The resident of a mobilehome that remains in the
29 mobilehome park after service of the notice to remove the
30 mobilehome shall continue to be subject to this chapter and the
31 rules and regulations of the park, including rules regarding
32 maintenance of the space.

33 (d) No lawful act by the management to enforce this chapter or
34 the rules and regulations of the park may be deemed or construed
35 to waive or otherwise affect the notice to remove the mobilehome.

36 (e) *Notwithstanding any other provision of law, following the*
37 *issuance of a judgment in an unlawful detainer case filed in*
38 *accordance with the requirements of this chapter, the homeowner*
39 *may not be forced to remove the homeowner's mobilehome from its*

1 *designated space for at least six months, if the homeowner meets*
2 *all of the following requirements:*

3 *(1) The homeowner informs the management in writing of the*
4 *homeowner's intention to sell the home or move it.*

5 *(2) The homeowner pays rent on the mobilehome in a timely*
6 *fashion or, if the homeowner intends to sell the mobilehome, agrees*
7 *in writing to pay the rent due upon the sale of the mobilehome.*

8 *(3) The judgment in the unlawful detainer action was not based*
9 *on subdivision (a), (b), or (c) of Section 798.56.*

10 SEC. 2. Section 798.56 of the Civil Code is amended to read:

11 798.56. A tenancy shall be terminated by the management
12 only for one or more of the following reasons:

13 (a) Failure of the homeowner or resident to comply with a local
14 ordinance or state law or regulation relating to mobilehomes
15 within a reasonable time after the homeowner receives a notice of
16 noncompliance from the appropriate governmental agency.

17 (b) Conduct by the homeowner or resident, upon the park
18 premises, that constitutes a substantial annoyance to other
19 homeowners or residents.

20 (c) Conviction of the homeowner or resident for prostitution or
21 a felony controlled substance offense if the act resulting in the
22 conviction was committed anywhere on the premises of the
23 mobilehome park, including, but not limited to, within the
24 homeowner's mobilehome.

25 However, the tenancy may not be terminated for the reason
26 specified in this subdivision if the person convicted of the offense
27 has permanently vacated, and does not subsequently reoccupy, the
28 mobilehome.

29 (d) Failure of the homeowner or resident to comply with a
30 reasonable rule or regulation of the park that is part of the rental
31 agreement or any amendment thereto.

32 No act or omission of the homeowner or resident shall constitute
33 a failure to comply with a reasonable rule or regulation unless and
34 until the management has given the homeowner written notice of
35 the alleged rule or regulation violation and the homeowner or
36 resident has failed to adhere to the rule or regulation within seven
37 days. However, if a homeowner has been given a written notice of
38 an alleged violation of the same rule or regulation on three or more
39 occasions within a 12-month period after the homeowner or
40 resident has violated that rule or regulation, no written notice shall

be required for a subsequent violation of the same rule or regulation.

Nothing in this subdivision shall relieve the management from its obligation to demonstrate that a rule or regulation has in fact been violated.

(e) (1) Nonpayment of rent, utility charges, or reasonable incidental service charges; provided that the amount due has been unpaid for a period of at least five days from its due date, and provided that the homeowner *or resident* shall be given a three-day written notice subsequent to that five-day period to pay the amount due or to vacate the tenancy. For purposes of this subdivision, the five-day period does not include the date the payment is due. The three-day written notice shall be given to the homeowner *or resident* in the manner prescribed by Section 1162 of the Code of Civil Procedure. A copy of this notice shall be sent to the persons or entities specified in subdivision (b) of Section 798.55 within 10 days after notice is delivered to the homeowner. If the homeowner *or resident* cures the default, the notice need not be sent. The notice may be given at the same time as the 60 days' notice required for termination of the tenancy. *A three-day notice given pursuant to this subdivision shall contain the following provisions printed in at least 12-point boldface type at the top of the notice, with the appropriate number written in the blank:*

“Warning: This notice is the (insert number) three-day notice for nonpayment of rent, utility charges, or other reasonable incidental services that has been served upon you in the last 12 months. Pursuant to Civil Code Section 798.56 (e) (5), if you have been given a three-day notice to either pay rent, utility charges, or other reasonable incidental services or vacate your tenancy on three or more occasions within a 12-month period, management is not required to give you a further three-day period to pay rent or vacate the tenancy before your tenancy can be terminated.”

(2) Payment by the homeowner *or resident* prior to the expiration of the three-day notice period shall cure a default under this subdivision. If the homeowner *or resident* does not pay prior to the expiration of the three-day notice period, the homeowner shall remain liable for all payments due up until the time the tenancy is vacated.

(3) Payment by the legal owner, as defined in Section 18005.8 of the Health and Safety Code, any junior lienholder, as defined in Section 18005.3 of the Health and Safety Code, or the registered owner, as defined in Section 18009.5 of the Health and Safety Code, if other than the homeowner *or resident*, on behalf of the homeowner *or resident* prior to the expiration of 30 calendar days following the mailing of the notice to the legal owner, each junior lienholder, and the registered owner provided in subdivision (b) of Section 798.55, shall cure a default under this subdivision with respect to that payment.

(4) Cure of a default of rent, utility charges, or reasonable incidental service charges by the legal owner, any junior lienholder, or the registered owner, if other than the homeowner *or resident*, as provided by this subdivision, may not be exercised more than twice during a 12-month period.

(5) If a homeowner has been given a three-day notice to pay the amount due or to vacate the tenancy on three or more occasions within the preceding 12-month period, no written three-day notice shall be required in the case of a subsequent nonpayment of rent, utility charges, or reasonable incidental service charges.

In that event, the management shall give written notice to the homeowner *or resident* in the manner prescribed by Section 1162 of the Code of Civil Procedure to remove the mobilehome from the park within a period of not less than 60 days, which period shall be specified in the notice. A copy of this notice shall be sent to the legal owner, each junior lienholder, and the registered owner of the mobilehome, if other than the homeowner *or resident*, as specified in paragraph (b) of Section 798.55, by certified or registered mail return receipt requested within 10 days after notice is sent to the homeowner.

(6) When a copy of the 60 days' notice described in paragraph (5) is sent to the legal owner, each junior lienholder, and the registered owner of the mobilehome, if other than the homeowner *or resident*, the default may be cured by any of them on behalf of the homeowner *or resident* prior to the expiration of 30 calendar days following the mailing of the notice, if all of the following conditions exist:

(A) A copy of a three-day notice sent pursuant to subdivision (b) of Section 798.55 to a homeowner *or resident* for the nonpayment of rent, utility charges, or reasonable incidental

1 service charges was not sent to the legal owner, junior lienholder,
2 or registered owner, of the mobilehome, if other than the
3 homeowner *or resident*, during the preceding 12-month period.

4 (B) The legal owner, junior lienholder, or registered owner of
5 the mobilehome, if other than the homeowner *or resident*, has not
6 previously cured a default of the homeowner *or resident* during the
7 preceding 12-month period.

8 (C) The legal owner, junior lienholder or registered owner, if
9 other than the homeowner *or resident*, is not a financial institution
10 or mobilehome dealer.

11 If the default is cured by the legal owner, junior lienholder, or
12 registered owner within the 30-day period, the notice to remove
13 the mobilehome from the park described in paragraph (5) shall be
14 rescinded.

15 (f) Condemnation of the park.

16 (g) Change of use of the park or any portion thereof, provided:

17 (1) The management gives the homeowners at least 15 days'
18 written notice that the management will be appearing before a
19 local governmental board, commission, or body to request permits
20 for a change of use of the mobilehome park.

21 (2) After all required permits requesting a change of use have
22 been approved by the local governmental board, commission, or
23 body, the management shall give the homeowners six months' or
24 more written notice of termination of tenancy.

25 If the change of use requires no local governmental permits,
26 then notice shall be given 12 months or more prior to the
27 management's determination that a change of use will occur. The
28 management in the notice shall disclose and describe in detail the
29 nature of the change of use.

30 (3) The management gives each proposed homeowner written
31 notice thereof prior to the inception of his or her tenancy that the
32 management is requesting a change of use before local
33 governmental bodies or that a change of use request has been
34 granted.

35 (4) The notice requirements for termination of tenancy set forth
36 in Sections 798.56 and 798.57 shall be followed if the proposed
37 change actually occurs.

38 (5) A notice of a proposed change of use given prior to January
39 1, 1980, that conforms to the requirements in effect at that time
40 shall be valid. The requirements for a notice of a proposed change

1 of use imposed by this subdivision shall be governed by the law in
2 effect at the time the notice was given.

3 (h) The report required pursuant to subdivisions (b) and (i) of
4 Section 65863.7 of the Government Code shall be given to the
5 homeowners or residents at the same time that notice is required
6 pursuant to subdivision (g) of this section.

7 (i) For purposes of this section, “financial institution” means
8 a state or national bank, state or federal savings and loan
9 association or credit union, or similar organization, and
10 mobilehome dealer as defined in Section 18002.6 of the Health
11 and Safety Code or any other organization that, as part of its usual
12 course of business, originates, owns, or provides loan servicing for
13 loans secured by a mobilehome.

14 SEC. 3. Section 798.58 of the Civil Code is amended to read:

15 798.58. (a) Tenancy may only be terminated for reasons
16 contained in Section 798.56, and a tenancy may not be terminated
17 for the purpose of making a homeowner’s site available for a
18 person who purchased or proposes to purchase, or rents or
19 proposes to rent, a mobilehome from the owner of the park or the
20 owner’s agent.

21 (b) (1) *Management may not take any action to terminate a*
22 *tenancy, including serving any eviction notice or bringing any*
23 *action to recover possession of a rental unit or a site, based upon*
24 *facts which the landlord does not have reasonable cause to believe*
25 *true or based upon a legal theory that is untenable under the facts*
26 *known to the landlord.*

27 (2) *A person who violates or incites another person to violate*
28 *this subdivision is liable for each and every offense for the actual*
29 *damages suffered by any aggrieved party or for statutory damages*
30 *of five thousand dollars (\$5,000), whichever is greater, and for*
31 *attorneys’ fees and costs as may be determined by the court. The*
32 *court may also award punitive damages to a plaintiff in a proper*
33 *case, as defined by Section 3294. The standard of proof for*
34 *awarding punitive damages is clear and convincing evidence.*

35 SEC. 4. Section 798.74 of the Civil Code is amended to read:

36 798.74. (a) (1) The management may require the right of
37 prior approval of a purchaser of a mobilehome that will remain in
38 the park and that the selling homeowner or his or her agent give
39 notice of the sale to the management before the close of the sale.
40 Approval cannot be withheld if the purchaser has the financial

1 ability to pay the rent and charges of the park unless the
2 management reasonably determines that, based on the purchaser's
3 prior tenancies, he or she will not comply with the rules and
4 regulations of the park. ~~It~~

5 *(2) The management right of prior approval of a purchaser is*
6 *subject to the following requirements:*

7 *(A) In determining whether the purchaser has the financial*
8 *ability to pay the rent and charges of the park, the management*
9 ~~shall~~ *may not require the purchaser to submit copies of any*
10 *personal income tax returns in order to obtain approval for*
11 *residency in the park. However, management may require the*
12 *purchaser to document the amount and source of his or her gross*
13 *monthly income or means of financial support.*

14 *(B) The management may not require that a purchaser have a*
15 *monthly gross income that is greater than two times the sum of both*
16 *of the following:*

17 *(i) The amount of the initial space rent, one month of utility*
18 *charges, and one month of other charges of the park that the*
19 *purchaser would be obligated to pay.*

20 *(ii) The monthly loan payment on the mobilehome that the*
21 *purchaser would be obligated to pay if the purchase of the*
22 *mobilehome is completed.*

23 *(3) Upon request of any prospective homeowner who proposes*
24 *to purchase a mobilehome that will remain in the park,*
25 *management shall inform that person of the information*
26 *management will require in order to determine if the person will*
27 *be acceptable as a homeowner in the park.*

28 *(4) Within 15 business days of receiving all of the information*
29 *requested from the prospective homeowner, the management shall*
30 *notify the seller and the prospective homeowner, in writing, of*
31 *either acceptance or rejection of the application, and the reason if*
32 *rejected. During this 15-day period the prospective homeowner*
33 *shall comply with the management's request, if any, for a personal*
34 *interview. If the approval of a prospective homeowner is withheld*
35 *for any reason other than those stated in this article, the*
36 *management or owner may be held liable for all damages*
37 *proximately resulting therefrom.*

38 *(b) If the management collects a fee or charge from a*
39 *prospective purchaser of a mobilehome in order to obtain a*
40 *financial report or credit rating, the full amount of the fee or charge*

1 shall be credited toward payment of the first month's rent for that
2 mobilehome purchaser. If, for whatever reason, the prospective
3 purchaser is rejected by the management, the management shall
4 refund to the prospective purchaser the full amount of that fee or
5 charge within 30 days from the date of rejection. If the prospective
6 purchaser is approved by the management, but, for whatever
7 reason, the prospective purchaser elects not to purchase the
8 mobilehome, the management may retain the fee, or a portion
9 thereof, to defray its administrative costs under this section.

